Tribal Wildlife Management

Introduction

Wildlife resources have always been central to the cultures of the treaty Indian tribes in western Washington. Elk, deer, waterfowl and other wildlife have long provided a source of food and clothing for Indian people.

As with salmon and shellfish, the tribes reserved the right to harvest wildlife in treaties with the U.S. government:

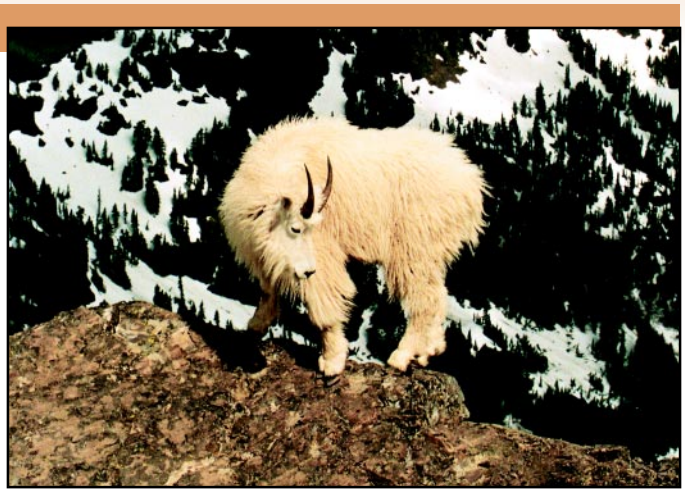
"The right of taking fish at all usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing, together with the privilege of hunting and gathering roots and berries on open an unclaimed lands; provided, however, that they shall not take shell-fish from any beds staked or cultivated by citizens."

- Treaty of Point Elliott, 1855

Little has changed over the centuries. The ancient link between the tribes and wildlife remains strong. Wildlife still provides important nutrition to Indian families on reservations where unemployment can run as high as 80 percent. As traditional foods, deer, elk and other wildlife remain important elements of feasts for funerals, naming ceremonies and potlatches. Hides, hooves, antlers, feathers and other wildlife parts are still used for traditional ceremonial items and regalia.

Unfortunately, the quality and quantity of the habitat upon which the wildlife resources in western Washington depend for their survival are declining rapidly. Where virgin forests once stood there is now urban sprawl. Deer and elk herds have been squeezed into smaller and smaller areas of degraded and fragmented habitat.

Concurrently, the ability of tribes to exercise their treaty-reserved right to hunt on open and unclaimed lands has also been dramatically impacted. Tribal members have been forced to hunt farther and farther from home to harvest their treaty-reserved share of wildlife resources.



Mountain goats, like all wildlife, are important to the cultures of the treaty Indian tribes in Western Washington.
Photo: D. Preston

Overlaid on this background has been a series of legal skirmishes as well as state and federal court rulings, most of them favorable to the tribes, addressing the tribal treaty hunting rights.

Treaty Hunting Rights

The treaty Indian tribes in western Washington, as responsible co-managers of the wildlife resource, work cooperatively with the State of Washington, citizen groups and others to manage the wildlife resources. However, the tribes face continual challenges to their treaty hunting rights.

Historically, the tribes have fared well in court cases involving their treaty-reserved rights, beginning in 1974 with *U.S. vs. Washington*, which re-affirmed the tribes' treaty right to up to half of the harvestable number of salmon returning to Washington waters. A similar ruling was handed down in 1994 regarding tribal treaty shellfish harvest rights. Both rulings have been upheld by the U.S. Supreme Court.

Because tribes do not hunt commercially, conflicts between tribes, the state and non-Indian hunters did not develop as early as with fishing. Further, wildlife populations were larger because more high quality habitat was available. But explosive growth in western Washington over the past several decades has reduced the amount of available habitat for wildlife, and has forced tribal members to hunt farther afield in order to exercise their treaty right.

State and federal courts have consistently upheld the right of treaty tribes to hunt on open and unclaimed land free of state regulation. The courts have generally ruled that lands such as National Forests, which have not been set aside for uses incompatible with hunting, are open and unclaimed. Further, the courts have ruled that in order to apply a state regulation to a tribal member with a treaty hunting right, the state must prove that the regulation is both reasonable and necessary for conservation purposes.

In 1999 the U.S. Supreme Court upheld the tribal treaty right to hunt on state lands free of state regulation in Minnesota v. Mille Lacs Band of Chippewa Indians. The ruling stemmed from hunting, fishing and gathering rights reserved by the tribe in an 1837 treaty with the U.S. government.

The Washington State Supreme Court made a similar ruling in 1999 in State v. Buchanan. Donald Buchanan, a Nooksack tribal member, was charged in 1995 with harvesting two elk during a closed season at the state-owned Oak Creek Wildlife Area. Two lower courts ruled Buchanan was simply exercising his treaty-reserved right to hunt on open and unclaimed land when he harvested the two elk.

The state Supreme Court ruled that treaty tribes may hunt within original tribal lands and traditional areas and also ruled that the state-owned Oak Creek Wildlife Area was open and unclaimed land within the meaning of the treaties. The court also threw out the state's argument that the treaty hunting right was eliminated when Washington became a state. As in the Mille Lacs case, the court said that only the U.S. government may abrogate a treaty right.

While tribes prefer to cooperate with the State of Washington in the implementation of their treaty hunting rights and responsibilities as co-managers of the wildlife resources, they realize that they may be forced to seek a clarification of their treaty hunting rights through the federal courts.

Tribal Wildlife Management Practices

The treaty Indian tribes in western Washington have a long history of co-managing natural resources with the State of Washington. The tribes and state have had numerous successes in implementing cooperative natural resource management efforts to protect, restore and enhance the productivity of natural resources in Washington.

In a recent policy decision, the Washington Fish and Wildlife Commission recognized that "the preservation of healthy, robust and diverse fish and wildlife populations is largely dependent on the state and tribes working in a cooperative and collaborative manner."

It is important to understand that tribal hunters do not hunt for sport. Hunting is a spiritual and personal undertaking for each hunter. All tribes prohibit hunting for commercial purposes.

Western Washington treaty tribal hunters account for only about 1 percent of the total combined deer and elk harvest in the state. According to state and tribal statistics for 2001, non-Indians harvested 40,977 deer, while tribal members harvested 508. For the same period, non-Indians took 8,278 elk; tribal hunters harvested only 215.

Most tribal hunters do not hunt only for themselves. The culture of tribes in western Washington is based on extended family relationships of parents, grandparents, aunts, uncles, cousins and other relatives. A tribal hunter usually shares his game with several families. In some cases, tribes may designate a hunter to harvest one or more animals for elders or families who cannot provide for themselves.

As a sovereign government, each treaty tribe develops its own hunting regulations and ordinances governing tribal members. Each tribe also maintains an enforcement program to ensure compliance with tribal regulations. As responsible managers, tribes know the value of enforcement as a management tool. Tribes have limited hunting opportunity for tribal members when, because of budgetary constraints, they have lacked resources to adequately enforce their regulations. The ratio of tribal enforcement officers to treaty hunters is higher than the ratio of state enforcement officers to non-Indian hunters.

Like the State of Washington, tribes set seasons based on sound biological information about the ability of the resource to support harvest. In the northern Puget Sound region, for example, tribes have for the past six years prohibited hunting on the Nooksack elk herd because the herd's population is too low. Loss and degradation of habitat are the primary causes of the herd's decline.

Before opening any area to hunting, many tribes forward their regulations to WDFW for review and comment. Tribes also share their harvest data with the department.

Tribal hunters are licensed by their tribes and must obtain tags for each big game animal they wish to hunt. If a hunter is successful, he must tag the animal and submit a harvest report to the tribe. Unlike the state system of voluntary reporting, tribal members are required to report all harvest. All tribal hunters carry photo identification cards with their name, date of birth, tribal affiliation and other information.

If a tribal member is found in violation of tribal regulations, he is cited into tribal court. Penalties can include fines and loss of hunting privileges. In most cases, tribal hunting regulations address the same harvest and safety concerns as state rules, such as prohibiting the carrying of loaded firearms in vehicles.

A number of tribes conduct hunter education courses, aimed especially at young tribal members, to ensure their hunters are safe when exercising their treaty right. Students are taught how to handle firearms, ethical considerations and the reasons behind tribal hunting regulations. Cultural aspects of hunting, as well as treaty hunting rights, also are covered in the classes.

Coordination

Collectively, the tribes have created the Inter-tribal Wildlife Committee of the Northwest Indian Fisheries Commission (NWIFC) to provide a forum for addressing inter-tribal issues. The committee also provides a unified voice in discussions with state and federal wildlife managers.

Tribes have created a technical working group through the NWIFC to share findings from research projects and address wildlife management issues common to all of the tribes.

An NWIFC wildlife biologist assists tribes in many aspects of natural resource management. One of the wildlife biologists's primary roles is maintaining and coordinating the statewide inter-tribal wildlife harvest database. Now in its fifth season, the database has become an important tool in tribal wildlife management, and is also shared with state and federal agencies. Species, sex, location of harvest and other information is entered into the database to aid tribes in meeting their management goals. The wildlife biologist coordinates collection of all tribal game harvest data, consults with individual tribes on their data collection systems, and provides technical analysis of statistics contained in the harvest database.

Tribal harvest regulations are collected annually by the wildlife biologist and cataloged before being distributed to tribes, as well as state and federal agencies. The biologist also coordinates meetings of Inter-tribal Wildlife Committee, as well as joint meetings with the State of Washington, federal agencies, local governments, legislative organizations and community groups.

The NWIFC biologist plays a key role to those tribes who currently do not have a wildlife biologist on staff, providing technical assistance regarding management decisions, development of wildlife management plans, and proposed legislation that may impact tribal programs. For tribes with wildlife biologists on staff, the NWIFC provides assistance with field work, design and implementation of research projects, and other services.

Accomplishments

Following are examples of the types of management projects conducted by tribes during FY 01:

The culture of the **Sauk-Suiattle Tribe** near Darrington is intimately linked with the mountain goats that once were plentiful in the North Cascades. Sauk-Suiattle social structures were symbolically fashioned after the matriarchal society of the mountain goats. Archaeological evidence shows tribal reliance on the mountain goat dating back at least 8,000 years. This unique relationship continues to this day as exemplified by the mountain goat atop the Sauk-Suiattle tribal crest. Not long ago, mountain goats numbered as many as 1,400 in the North Cascades. Today, that number has dropped to fewer than 100.

With funding for recovery efforts hard to find, state and federal agencies have asked the tribe to take the initiative in mountain goat conservation. With the tribe in the lead, federal agencies such as the U.S. Fish and Wildlife Service and Forest Service; state agencies such as WDFW; private groups such as the Safari Club; as well as the University of Washington's Wildlife Science Program are working together to address the needs of the North Cascades mountain goat.

During 2001, tribal staff undertook a preliminary population size and health study of the remaining North Cascades Mountain Goat. Staff lived among goat herds for one week, monitoring their numbers and behavior in the hopes of providing a guide for future efforts.

Future studies and recovery projects are now being planned by the Sauk-Suiattle tribe. While a number of factors have contributed to the decline of the goats, the tribe has identified a few measures critical to their recovery: comprehensive studies, habitat preservation, and actions to control disease and parasites plaguing the animals.

Southern Puget Sound treaty Indian tribes are continuing a study this winter of two elk herds inhabiting the southern slopes and valleys of Mount Rainier. One herd, called the South Rainier (SR) herd by biologists, is thought to generally stay put along the Cowlitz River Valley. Its population had remained fairly stable over the years at about 1,500 animals, but now appears to be on a decline.The second herd, the Mount Rainier National Park South (MRNPS) herd, spends the summer calving season as high as 6,500 feet on the slopes of Mount Rainier. When the snows of late fall arrive, the herd is believed to move down the mountain and winter along the Cowlitz River, mixing with the South Rainier Herd, and possibly with a herd from the Mount St. Helens area.

Both the SR herd and MRNPS herd have seen a sharp decline in estimated numbers over the past two decades. In the mid-1970s, the MRNPS herd averaged about 400 animals. By the mid-1990s, it had shrunk by nearly half. Survey results in 1999 showed an increase to 314, however, the 2000 survey decreased to 255.Hunting pressure, as well as increased cougar and bear predation are some of the possible causes of the MRNPS herd's decline. There's also the possibility that, every year, a number of animals from the migratory MRNPS herd stop migrating and join up with the resident SRH or the Mount St. Helens herd.

The first step in the study was completed last winter when tribal biologists conducted three aerial surveys to update the MRNPS herd's population trend. Biologists examined the ratio of bulls to cows and the ratio of cows to calves as part of an analysis of the herd's composition. The second step took place last February, when 11 of the herd's cows were captured, fitted with radio transmitters and tracked periodically.This winter, up to 34 cows from the MRNPS herd will be fitted with collars and radio tracked all year.

The comprehensive study is being conducted by the **Puyallup, Nisqually and Squaxin Island tribes.** Information gathered from the study is being shared with the Washington Department of Fish and Wildlife, which is assisting in the effort.

The Makah Tribe completed their second year of a long-term study in cooperation with Washington Department of Fish and Wildlife, the Rocky Mountain Elk Foundation, and a group of landowners including Crown Pacific, Merrill and Ring, Green Crow, Rayonier, Olympic National Park, and the state Department of Natural Resources.

In March of 2001, the tribe added seven more collars for a total of 19 collared elk in 9 herds. The tribe's long term study goals include identifying calving area, investigating long term home range use, identifying sources of mortality for cow elk and investigating annual survival rates of cow elk.

Conclusion

The treaty Indian tribes in western Washington possess an unbreakable cultural and spiritual bond with the wildlife resources of the region. That bond is bolstered by an indisputable treaty-reserved right to harvest these resources for their needs. As responsible co-managers of those resources, with the State of Washington, the tribes' primary goal is to ensure the health of these resources for future generations.

For more information about the natural resource management activities of the treaty Indian tribes in western Washington, contact the Northwest Indian Fisheries Commission, 6730 Martin Way E., Olympia, WA 98516; or call (360) 438-1180. Visit the NWIFC home page at www.nwifc.org.